IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of Atty. Docket: NL 000348
ALPHONSIUS ANTHONIUS JOZEF DE LANGE ET AL.

Confirmation No. 2797

Serial No. 09/883,440 Group Art Unit: 2424

Filed: JUNE 18, 2001 Examiner: SHANG, A.Q.

Title: METHOD OF AUTOMATIC EXECUTION, RECEIVING STATION

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APPEAL BRIEF

Sir:

Appellants herewith respectfully present a Brief on Appeal as follows, having filed a Notice of Appeal on January 12, 2009:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-14 are pending in this application. Claims 1-14 are rejected in the Final Office Action mailed in July 11, 2008. This rejection was upheld, in the Advisory Action that was mailed on December 31, 2008. Claims 1-14 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants filed on September 10, 2008 an after final amendment in response to a Final Office Action mailed July 11, 2008. The after final amendment did not include any amendments. In an Advisory Action mailed on December 31, 2008, it is indicated that the after final amendment filed on September 10, 2008 does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed July 11, 2008, that finally rejected claims 1-14, which remain finally rejected in the Advisory Action mailed on December 31, 2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a method of automatic execution of an application on a receiving station. The method comprises the steps of receiving a signal 102 and receiving a channel selection from a user, as shown in FIG 1. As shown in FIG 1, and described on page 6, lines 1-33 of the specification, the received signal 102 comprises a plurality of streams, each stream being associated with a channel on the receiving station 109 and comprising a content portion 103, 104, 105 and zero or more application portions 106, 107, 108.

As described on page 8, lines 3-27 of the specification, the method further includes displaying the content portion of the stream associated with the selected channel; and when execution of applications is enabled, executing an application present in the application portion, if any, of the stream associated with the selected channel.

As described on page 9, lines 3-34 of the specification, the

method further includes disabling execution of the application of the stream associated with the channel in response to the user selecting the channel; and enabling execution of the application of the stream associated with the channel in response to the occurrence of an enabling event indicating that the user is actively viewing the selected channel.

The present invention, for example, as recited in independent claim 6, is directed to a receiving station 109 shown in FIG 2. As shown in FIG 2 and described from page 7, lines 31 to page 8, line 16 of the specification, the receiving station 109 comprises a receiving unit 205 for receiving a signal 102 comprising a plurality of streams, each stream being associated with a channel on the receiving station 109 and comprising a content portion 103, 104, 105 and zero or more application portions 106, 107, 108. The receiving station 109 further comprises a selection unit 206 for receiving a channel selection from a user; and a display control unit 207 for displaying the content portion 103, 104, 105 of the stream associated with the selected channel.

As shown in FIG 2 and described from page 8, lines 3 to page

9, line 18 of the specification, the receiving station 109 further comprises an execution unit 208 for determining if execution of applications is enabled, and if so, executing an application present in the application portion 106, 107, 108, if any, of the stream associated with the selected channel. Further, the execution unit 208 disables execution of the application of the stream associated with the channel in response to the user selecting the channel, and the execution unit 208 enables execution of the application of the stream associated with the channel in response to the occurrence of an enabling event indicating that the user is actively viewing the selected channel.

The present invention, for example, as recited in independent claim 11, is directed to a method comprising receiving a signal 102 at a receiving station 109 as shown in FIGs 1-2. As shown in FIG 1, and described on page 6, lines 1-33 of the specification, the received signal 102 comprises a plurality of streams each being associated with a different respective channel of the receiving station 109, where one or more streams comprise respective content portions 103, 104, 105 and one or more streams comprising a

respective application portions 106, 107, 108;

As described on page 8, lines 3-27 of the specification, the method further includes receiving user input of a channel selection; and displaying the content portion, if any, of the stream associated with the selected channel; where, as described on page 9, lines 19-34; and page 10, lines 19-29 of the specification, depending on a period of time without user input following the channel selection, executing an application present in the application portion, if any, of the stream associated with the selected channel.

The present invention, for example, as recited in independent claim 12, is directed to a receiving station 109 shown in FIG 2. As shown in FIG 2 and described from page 7, lines 31 to page 8, line 16 of the specification, the receiving station 109 comprises a receiving unit 205 for receiving a signal 102 comprising a plurality of streams. The plurality of streams each is associated with a channel of the receiving station 109, where the one of more of the steams each comprises a different respective content portion 103, 104, 105, and a different respective application portion 106,

107, 108. The receiving station 109 further comprises a selection unit 206 for receiving user input including a channel selection; and a display control unit 207 for displaying the content portion of the stream, if any, associated with the selected channel.

As shown in FIG 2 and described from page 8, lines 3 to page 9, line 34; and page 10, lines 19-29 of the specification, the receiving station 109 further comprises an execution unit 208 for executing an application present in the application portion, if any, of the stream associated with the selected channel, depending on a period of time without user input following the channel selection.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 3-6 and 8-14 of U.S. Patent Application Serial No. 09/883,440 are unpatentable under 35 U.S.C. §102(e) over U.S. Patent No. 6,948,183 (Peterka).

Whether claims 1, 3-6 and 8-14 of U.S. Patent Application Serial No. 09/883,440 are unpatentable under 35 U.S.C. §102(e) over U.S. Patent No. 6,415,438 (Blackketter).

Whether claims 2 and 7 of U.S. Patent Application Serial No. 09/883,440 are unpatentable under 35 U.S.C. §103(a) over Peterka in view of U.S. Patent Application Publication No. 2002/0056086 (Yuen).

Whether claims 2 and 7 of U.S. Patent Application Serial No. 09/883,440 are unpatentable under 35 U.S.C. §103(a) over Blackketter in view of Yuen.

ARGUMENT

Claims 1, 3-6 and 8-14 are said to be unpatentable over Peterka.

Appellants respectfully request the Board to address the patentability of independent claims 1, 6 and 11-12, and further claims 2-5, 7-10 and 13-14 as depending from claims 1 and 6, based on the requirements of independent claims 1 and 6. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claims 2-5, 7-10 and 13-14 at a later date should the separately patentable subject matter of 2-5, 7-10 and 13-14 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1, 6 and 11-12 is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

Peterka is directed to a system for controlling access to receiver functionality and data from downloaded applications in a digital television receiver. When a user switches to a current channel, e.g., Ch1, then an application associated with Ch1 is executed, e.g., App1. When the user switches to a different channel, e.g. Ch2, then App1 is terminated. That is, switching to a new channel Ch2, stops execution of an application App1 associated with a **previous** channel Ch1.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claim 6, amongst other patentable elements recites (illustrative emphasis provided):

> disabling execution of the application of the stream associated with the channel in response to the user selecting **the** channel.

Disabling execution of an application (e.g., App1) of the stream associated with the channel (e.g., Ch1) in response to the user selecting **the VERY SAME** channel Ch1 (i.e., NOT the previous channel), is nowhere disclosed or suggested in Peterka. Rather, Peterka discloses stopping execution of an application App1

associated with a **previous** channel Ch1, when the channel is changed from the previous channel Ch1 to a new channel Ch2. This has nothing to do with disabling execution of an application App2 associated with a new channel Ch2. Rather, Peterka discloses to indeed **execute (and not disable)** of an application App2 associated with a new channel Ch2, thus teaching away from "disabling execution of the application of the stream associated with **the** channel in response to the user selecting **the** channel," as recited in independent claim 1 and similarly recited in independent claim 6. (Illustrative emphasis provided)

Further, it is respectfully submitted that Peterka does not teach or suggest the present invention as recited in independent claim 11, and similarly recited in independent claim 12 which, amongst other patentable elements, recites (illustrative emphasis provided):

> depending on a period of time without user input following the channel selection, executing an application present in the application portion, if any, of the stream associated with the selected channel.

These features are nowhere disclosed or suggested in Peterka.

Rather, Peterka discloses executing an application associated with the channel which is selected by the user without dependence on any time period.

The sections of Peterka noted in the Advisory Action, namely, column 6, line 27 to column 7, line 27; column 8, line 53 to column 9, line 33; column 10, lines 16-26; and column 12, line 10 to column 13, line 47, merely disclose a security processor that executes a downloadable application under several conditions, such as auto-start, in response to a user clicking an icon, based on a timer set by the user. Permission/condition relationship allow an application to run on a channel it is associated with, but not on other channels. Such disclosure has nothing to do with the features recited in independent claims 1, 6 and 11-12 discussed above.

Accordingly, it is respectfully requested that independent claims 1, 6 and 11-12 be allowed. In addition, it is respectfully submitted that claims 2-5, 7-10 and 13-14 should also be allowed at least based on their dependence from independent claims 1 and 6 as well as their individually patentable elements.

Claims 1, 3-6 and 8-14 are said to be unpatentable over Blackketter.

Blackketter is directed to an interactive television trigger having a time attribute value that indicates a future time when the trigger is to be executed. Blackketter specifically recites on column 8, lines 58-65:

> Next (step 1303), the channel of video being displayed by the receiver unit is switched from the first channel to a second channel. When the channel of video is switched to the second channel, the enhancement is no longer displayed because the trigger 1200 is not associated with the second channel. The switching of channels from the first channel to the second channel is illustrated in FIG. 12 as occurring at time 1205. (Emphasis added)

Thus, similar to Peterka, in Blackketter too switching to a **new** channel **Ch2**, stops execution of an application **App1** associated with a **previous** channel **Ch1**.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claim 6, amongst other patentable elements recites (illustrative emphasis provided):

> disabling execution of the application of the stream associated with the channel in response to the user selecting **the** channel.

Disabling execution of an application (e.g., App1) of the stream associated with the channel (e.g., Ch1) in response to the user selecting **the VERY SAME** channel Ch1 (i.e., NOT the previous channel), is nowhere disclosed or suggested in Blackketter. Rather, Blackketter discloses stopping execution of an application App1 associated with a **previous** channel Ch1, when the channel is changed from the previous channel Ch1 to a new channel Ch2. Again, this has nothing to do with disabling execution of an application App2 associated with a new channel Ch2. Rather, Blackketter discloses to indeed **execute (and not disable)** of an application App2 associated with a new channel Ch2, thus teaching away from "disabling execution of the application of the stream associated with **the** channel in response to the user selecting **the** channel," as recited in independent claim 1 and similarly recited in independent claim 6. (Illustrative emphasis provided)

Further, it is respectfully submitted that Blackketter does not teach or suggest the present invention as recited in

independent claim 11, and similarly recited in independent claim 12 which, amongst other patentable elements, recites (illustrative emphasis provided):

> depending on a period of time without user input following the channel selection, executing an application present in the application portion, if any, of the stream associated with the selected channel.

These features are nowhere disclosed or suggested in Blackketter. Rather, Blackketter disclose executing an application associated with the channel which is selected by the user without dependence on any time period.

The sections of Blackketter noted in the Advisory Action, namely, column 2, lines 25-36; and column 8, line 50 to column 9, line 16 merely disclose to stop execution of an old application, e.g., App1, associated with an old channel, e.g., Ch1, when the user switch to a new channel, e.g., Ch2, since the previous or old application App1 is not associated with the new channel Ch2, but is associated with the old channel Ch1. Further, the old or previous application App1 (associated with the previous or old channel Ch1) is re-executed automatically if the user switches back to the old

channel Ch1 within a certain time period or life span. Such disclosure has nothing to do with the features recited in independent claims 1, 6 and 11-12 discussed above.

Accordingly, it is respectfully requested that independent claims 1, 6 and 11-12 be allowed. In addition, it is respectfully submitted that claims 2-5, 7-10 and 13-14 should also be allowed at least based on their dependence from independent claims 1 and 6 as well as their individually patentable elements.

Claims 2 and 7 are said to be unpatentable over Peterka in view of Yuen.

It is respectfully submitted that claims 2 and 7 should be allowed at least based on their dependence from independent claims 1 and 6.

Claims 2 and 7 are said to be unpatentable over Blackketter in view of Yuen.

It is respectfully submitted that claims 2 and 7 should be allowed at least based on their dependence from independent claims

1 and 6.

In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-14 are patentable over Peterka, Blackketter and Yuen.

Thus, the Examiner's rejections of claims 1-14 should be reversed.

Respectfully submitted,

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CLAIMS APPENDIX

1.(Previously Presented) A method of automatic execution of an application on a receiving station, said method comprising the steps of:

receiving a signal comprising a plurality of streams, each stream being associated with a channel on the receiving station and comprising a content portion and zero or more application portions;

receiving a channel selection from a user;

displaying the content portion of the stream associated with the selected channel; and

when execution of applications is enabled, executing an application present in the application portion, if any, of the stream associated with the selected channel, characterized in that the method further comprises the steps of:

disabling execution of the application of the stream associated with the channel in response to the user selecting the channel; and

enabling execution of the application of the stream associated

with the channel in response to the occurrence of an enabling event indicating that the user is actively viewing the selected channel.

2.(Previously Presented) The method as claimed in claim 1, characterized in that a timer is reset in response to any user interaction with the receiving station, and the enabling event comprises the timer reaching a predetermined timeout value.

3.(Previously Presented) The method as claimed in claim 1, characterized in that the enabling event comprises the erasing of an on-screen display element from a display system.

4.(Previously Presented) The method as claimed in claim 3, characterized in that the on-screen display element is an identifier for the current channel.

5.(Previously Presented) The method as claimed in claim 3, characterized in that the on-screen display element is the last of a plurality of on-screen display elements being displayed.

6.(Previously Presented) A receiving station comprising:

a receiving unit for receiving a signal comprising a plurality of streams, each stream being associated with a channel on the receiving station and comprising a content portion and zero or more application portions;

a selection unit for receiving a channel selection from a user;

a display control unit for displaying the content portion of the stream associated with the selected channel; and

an execution unit for determining if execution of applications is enabled, and if so, executing an application present in the application portion, if any, of the stream associated with the selected channel,

characterized in that

the execution unit disables execution of the application of the stream associated with the channel in response to the user selecting the channel, and

the execution unit enables execution of the application of the

stream associated with the channel in response to the occurrence of an enabling event indicating that the user is actively viewing the selected channel.

7.(Previously Presented) The receiving station as claimed in claim 6, characterized in that the receiving station further comprises a timer arranged to be reset in response to any user interaction with the receiving station, and the enabling event comprises the timer reaching a predetermined timeout value.

8.(Previously Presented) The receiving station as claimed in claim 6, characterized in that the receiving station further comprises an on-screen display unit, and the enabling event comprises the on-screen display unit erasing an on-screen display element from a display system.

9.(Previously Presented) The receiving station as claimed in claim 8, characterized in that the on-screen display element is an identifier for the current channel.

10.(Previously Presented) The receiving station as claimed in claim 8, characterized in that the on-screen display element is the last of a plurality of on-screen display elements being displayed by the on-screen display unit.

11.(Previously Presented) A method comprising the steps of:

receiving a signal at a receiving station, the signal comprising a plurality of streams, a plurality of the steams each being associated with a different respective channel of the receiving station, one or more streams comprising respective content portions and one or more streams comprising a respective application portions;

receiving user input of a channel selection;

displaying the content portion, if any, of the stream associated with the selected channel; and

depending on a period of time without user input following the channel selection, executing an application present in the application portion, if any, of the stream associated with the

selected channel.

12.(Previously Presented) A receiving station comprising

a receiving unit for receiving a signal comprising a plurality of streams, a plurality of streams each being associated with a channel of the receiving station, one of more of the steams each comprising a different respective content portion, one or more of the streams each comprising a different respective application portion;

a selection unit for receiving user input including a channel selection;

a display control unit for displaying the content portion of the stream, if any, associated with the selected channel; and

an execution unit for executing an application present in the application portion, if any, of the stream associated with the selected channel, depending on a period of time without user input following the channel selection.

13.(Previously Presented) The method as claimed in claim 1,

wherein execution of all applications is disabled in response to the user selecting the channel.

14.(Previously Presented) The receiving station as claimed in claim 6, wherein the execution unit disables execution of all applications in response to the user selecting the channel.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None